

### REMARKS

In accordance with the foregoing, claims 1, 4, 6, 9, and 13 are amended. Claims 3 and 8 are cancelled herein without prejudice or disclaimer.

Independent claim 1 is amended herein to include the features recited by dependent claim 3 cancelled herein. Independent claim 6 is amended herein to include the features recited by dependent claim 8 cancelled herein. Independent claim 13 is similarly amended.

Dependent claims 4 and 9 are amended accordingly. No new matter is presented, and accordingly approval and entry of the foregoing amended are respectfully requested.

Claims 1- 2, 4-7, and 9 -13 are pending and under consideration.

#### **Page 6: Allowable Subject Matter**

On page 6 of the Office Action, the Examiner indicates claims 3-4 and 8-9 recite allowable subject matter. Applicants thank the Examiner for the indication of allowable subject matter.

The Examiner objects to claims 3-4 and 8-9 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. (Action at page 6, lines 7-10).

Independent claim 1 is amended herein to recite the features of dependent claim 3 found allowable. Independent claim 6 is amended herein to include the features recited by dependent claim 8. Independent claim 13 is also amended herein to include the features of claim 8.

Dependent claims 3 and 4 are cancelled herein. Dependent claims 4 and 9 are amended herein to so as to be dependent, respectively, on claims 1 and 6. Thus, withdrawal of the objection is requested.

**Item 1: Rejection of claims 1-2, 5-7, 10, 13 under 35 U.S.C. §103(a) as being unpatentable over Shishido et al. (U.S.P. 6,865,288) in view of Chen et al. (U.S.P. 6,721,695)**

**Item 2: Rejection of claims 11-12 under 35 U.S.C. 103(a) as being unpatentable over Shishido in view of Chen and Usui et al. (U.S.P. 6,617,083)**

In items 1 and 2 of the Office Action, the Examiner rejects independent claims 1, 6, and 13 (and dependent claims 2, 5, 7, and 10-12) under 35 U.S.C. §103(a) as being unpatentable over Shishido et al. (U.S.P. 6,865,288) in view of combinations of Chen and Usui.

The rejections are traversed

As set forth in MPEP §2143.03 "To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490

F. 2d 1981, (CCPA 1974)."

The Action indicated allowable features were recited by dependent claim 3 and 8 (and respective dependent claims 4 and 9) and thus features recited therein were not taught nor suggested by an arguendo combination of the art relied on by the Examiner in support of the rejections.

Independent claims 1, 6, and 13 are amended herein to include such features.

For example, independent claim 1, as amended herein, recites an inspection device that identifies defects on a subject of inspection including photomasks or products fabricated using photomasks, including " . . . a defect registration determinator that refers to said sensitivity class codes in said region and determines whether to register said defect; and a defect memory that records said defect for which registration has been determined, the defect registration determinator that further: determines the detected defect is a non-registration defect if the detected defect is smaller than the inspection sensitivities allocated to the sensitivity class codes, and creates a defect determination range by shifting outwardly an outline of a region associated with each of said pattern functions, and based on overlap of said defect and said defect determination range, determines whether to register said defect. Independent claims 6 and 13 as amended have a similar recitation.

As indicated by the Examiner on page 6 of the office Action, an arguendo combination of the art relied on by the Examiner does not teach nor suggest at least features of an inspection device, for example, determining including "creating a defect determination range by shifting outwardly an outline of a region associated with each of said pattern functions, and based on overlap of said defect and said defect determination range, determining whether to register said defect."

By contrast Shishido merely teaches:

an object of the present invention is to . . . provide a pattern inspection method and apparatus using image comparison, in which the chance of detection error of a normal fine pattern is reduced by reducing the high-precision positioning failure in subpixels of an object having various fine patterns existing therein, while at the same time making accurate inspection possible without overlooking the fine defects occurred in the fine patterns.

(col. 1, lines 61- col. 2, line 2)

That is, Shishido teaches comparing detection image data with reference image data to detect all defects including small defects occurring in a fine pattern.

Chen does not teach any using a sensitivity in examining if a detected defect is smaller

than a inspection sensitivities allocated to the sensitivity class codes. By contrast, Chen merely teaches:

Sensitivity modules 14 are conventional modules for evaluating sensitivity of an inspection tool in detecting programmed defects.

(col. 4, lines 8-10)

That is, Chen teaches determining the sensitivity capability of a tool, not using the sensitivity in determining the size of a defect.

Usui merely teaches a correction may be rule-based or simulation based. (Col. 5, lines 65-67).

#### Summary

Since features recited by independent claims 1, 6, and 13 (and dependent claims 2, 5, 7, and 10-12) are not taught by an *arguendo* combination of the art relied on by the Examiner, the rejection should be withdrawn and claims 1-2, 5-7, and 10-13 allowed.

#### Conclusion

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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Date: March 17, 2008

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